

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

**RICHARD (RICKEY) PALERMO
and SHEILA PALERMO**

APPELLEES/PLAINTIFFS

V.

NO. 5:07cv052-DCB-JMR

LETOURNEAU TECHNOLOGIES, INC., ET AL.

APPELLANTS/DEFENDANTS

MOTION FOR VOLUNTARY NON-SUIT

COME NOW the Plaintiffs and, without waiving their objection to the removal of this cause from the Circuit Court of Warren County, a Motion to Remand to be filed within the week, do ask the Court to grant a voluntary non-suit in this matter for the reasons as set out below. A granting of this Motion would render the Remand Motion moot.

1. That no parties will be prejudiced by the granting of this Motion, as a properly pled Complaint will be filed on this day in the Circuit Court of Warren County, Mississippi;
2. That under recent Mississippi Supreme Court decisions there were fatal technical defects against some Defendants in the previously filed and removed Complaint which must be corrected, and, since the Plaintiffs are still within their prescription period, the matter can be properly filed.
3. That the Plaintiffs have received certain information from the Defendants herein which make it just to remove more than one Defendant, which the new Complaint does.
4. That a Defendant thought that the Complaint raised a "federal question", recovery under the Harbor and Longshoremen Workers Act. The new Complaint makes it clear that such is not the case, and the HLWA case number and caption is included as is the name of Claimant's attorney.

5. The work done regarding Plaintiffs' discovery is not wasted as the same basic discovery will be filed with the new Complaint.
6. Should this request not be granted, the Plaintiffs' rights might be adversely affected due to a correctable procedural pleading defect.
7. The undersigned avers that, as a matter of justice, this Motion should be granted and that this motion is not filed for the purpose of delay.

RESPECTFULLY SUBMITTED this 30th day of March, 2007.

RICHARD (RICKEY) PALERMO
and SHEILA PALERMO

BY: /s Paul Kelly Loyacono
PAUL KELLY LOYACONO (MSB #1473)

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CERTIFICATE OF SERVICE

I hereby certify that on March 30, 2007, I electronically filed the foregoing instrument with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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I further certify that I have, via U.S. Mail, postage prepaid, this day mailed a true and correct copy of the foregoing instrument to the following individuals not registered through the ECF system at their usual mailing address:

Richard M. Hanchett
Trenam Kemker
101 E. Kennedy Blvd., Suite 2700
Tampa, Florida 33602

SO CERTIFIED, this 30th day of March, 2007.

/s/ Paul Kelly Loyacono
PAUL KELLY LOYACONO